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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/735,312	12/11/2000	Nobuaki Tanaka	FUJO116715	4957
26389	7590	05/03/2005	EXAMINER	
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC 1420 FIFTH AVENUE SUITE 2800 SEATTLE, WA 98101-2347			VU, VIET DUY	
			ART UNIT	PAPER NUMBER
			2154	

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/735,312

Applicant(s)

TANAKA ET AL.

Examiner

Viet Vu

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 15-17 and 31-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 18-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 15-17 and 31-33 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. Applicant's election of Invention I, including claims 1-14 and 18-30, is hereby acknowledged. Applicant is required to cancel non-elected claims in the next correspondence.

Non-Art Rejections:

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-14 and 18-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The following language lacks proper antecedent basis:

In claim 1, line 10, "said connection fee calculation means", it is not clear as whether it refers to "network connection fee calculation means".

In claim 14, line 10, "the line connection fee".

In claim 18, line 8, "the line connection fee".

In claim 23, line 8, "the line connection fee".

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Art Rejections:

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

5. Claims 1, 3-8, 10-12, 14, 18 and 20-23 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Bauer et al, U.S. pat. No. 6,061,436.

Per claim 1, Bauer discloses a system for providing voice and data services to customers comprising:

a) a relaying means (11, fig. 1) for relaying a network connection from a user terminal (10, fig. 1) to or through an

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access point (14, fig. 1) via a network (e.g., Internet 13) (see col 4, lines 8-26 and 49-58);

b) a monitoring means for monitoring the network connection from the user through the access point (col 5, lines 6-35); and

c) a network connection fee calculation means for calculating a network connection fee for the user based on a monitoring result of said monitoring means, wherein said connection fee calculation means comprises:

i) a line connection fee calculation means for calculating and recording a line connection fee (fee schedule and billing) for a line connection made by the user to said access point based on user signal source information, which is provided from a telephone company (col 6, lines 6-21 and 61-67); and

ii) a charge amount calculation means for calculating a charge amount for the user based on the line connection fee, calculated by said line connection fee calculation means (see col 9, lines 33-40).

Per claims 3-4 and 6, Bauer teaches providing an indicator to indicate that the call receiver is responsible for the line connection fee (see col 7, line 50 - col 8, line 6). It is noted that either the source or access point could have one or more different numbers.

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Per claims 5 and 7, Bauer teaches calculating the line connection fee according to distance between the signal source and the access point, e.g., local call or toll long-distance call (see col 9, lines 41-67).

Per claim 8, Bauer teaches a certificating means for verifying user billing account and selecting a billing type based on service contract (see col 6, lines 27-52).

Per claims 10 and 14, Bauer teaches computing charges by multiplying connection time by a predetermined fixed rate, e.g., per minute cost (col 7, lines 32-40).

Per claims 11-12, Bauer teaches allowing charges to be applied partly or wholly to other party, e.g., variable cost (col 7, lines 40-49).

Claims 18 and 20-23 are similar in scope as that of claims 1, 3-8, 10-12 and 14.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 2, 9, 13, 19 and 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bauer and further in view of Short, U.S. pat. No. 6,789,110.

Per claim 2, Bauer teaches that voice/data services can be conducted via different types of network connections (see Bauer in col 4, lines 55-67). Bauer does not explicitly teach computing a charge based upon network connection type. Such fee calculation based upon network connection type is well known in the art as disclosed by Short. Particularly, Short teaches enabling user to select different types of network bandwidths and/or network connections for delivering data services to users and to compute cost based on the selected bandwidth or connection (see Short in col 11, lines 1-20).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bauer with Short's teaching because it would have enabled Bauer to provide data services over different types of network connections.

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Per claims 9, 13 and 19, Bauer does not teach computing network connection/usage fee based on the connection time. The use of per-minute cost fee schedule for data services is well known in the art as disclosed by Short (see Short in col 11, lines 1-20).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize such time-based calculation in Bauer because it would have enabled the system to properly compute network connection charges for data services, e.g., multimedia delivery.

It would have been further obvious to one of ordinary skill in the art to recognize combination of the network connection fees and line connection fees into a consolidated customer bill in Bauer because it would have enabled the customers to pay for data services by phone bill (see Bauer in col 4, lines 1-7).

Per claims 24-27, Short also teaches using user's profile and/or geographical region of the access point to deliver local and customized contents to the user (see Short in col 13, lines 3-57).

9. Claims 28-30 are not rejected on art.

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Conclusion:

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viet Vu whose telephone number is 571-272-3977. The examiner can normally be reached on Monday through Thursday from 8:00am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee, can be reached on 571-272-3964.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



VIET D. VU
PRIMARY EXAMINER

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4/26/05